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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,016	12/30/2003	John W. Hoffman	18,996	9322

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EXAMINER	
SCHATZ, CHRISTOPHER	

ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,016	HOFFMAN ET AL.	
	Examiner	Art Unit	
	Christopher T. Schatz	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 0705*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) *10-12* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,13 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al. '922 in view of Herrin '345. VanGompel discloses an article web 20, said article web comprising: an elastic member 60 wherein at least a portion of said elastic member is elongatable to define an elastic member width (column 8, lines 48-50); an inboard portion 58 and an outboard side portion 90. VanGompel further discloses that when said elastic member is applied to said article web, the outboard portions of said elastic member extend beyond edges 28 of said article web (figure 1, figure 7, column 2, lines 41-54, column 9, lines 38-49). VanGompel does not explicitly disclose a method of making said article web by using the machine and rotatable wheels as claimed by applicant. It should be noted that VanGomple does state that the elastic member 60 was applied to the article in a tensioned state (contactable) as described in column 9, lines 9-17.

Herrin discloses a method for applying an elastic member 22 to an article web 18, said method comprising of: providing an elastic member, wherein at least a portion of the said elastic

member is elongated in a cross machine direction (column 1, lines 49-52); moving said elastic member in a machine direction along an elastic member web path (column 2, lines 12-17) (Figure 6); providing a pair of rotatable wheels 68,78 in said elastic member web path, said wheels defining: a pair of inboard edges 76,86 and a pair of outboard edges opposite said inboard edges (Figure 6), an elastic entry location 92 having a width that is less than the width of the elastic member (column 2, lines 19-21); and an elastic member exit location 94 having a width that is greater than the width of the entry location (figure 6); engaging the elastic member with the pair of wheels at said elastic member entry location (column 4, lines 36-38) , wherein a portion of the elastic member is located beyond the each said inboard potion of said pair of wheels thereby defining a pair of outboard portions 22B,22C and an inboard portion of the elastic member (Figure 6); and rotating the elastic member with said pair of wheels and applying said elastic member to the article web at the elastic member exit location (column 4, lines 46-51). The method recited by Herrin is well known in the art of applying an elastic member to an article web, and, since Herrin discloses the existence of both inboard and outboard portions of the elastic member during cross-machine stretching, the use of the method taught by Herrin to produce the novel, zone-stretched product taught by VanGompel would have been obvious to one of ordinary skill in the art as the reference to VanGomple suggested application of the member in a tensioned state. As to claim 13, Herrin discloses that the inboard portion of an elastic member is elongated at least 50%. Note that although the reference does not explicitly recite that the inboard portion is elongated by more than 50%, it is clear upon examination of figure 6, that the length of the outlet portion 94 of the rollers is greater than 50% of the length of

the inlet portion 92. Thus, one of ordinary skill in the art would have understood that the inboard portion of the elastic member would be elongated by at least 50%.

3. Claims 2-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel and Herrin as applied to claim 1 above, and in further view of Ujimoto et al. VanGompel and Herrin disclose a method as stated in claim 1, but the references fail to disclose a method of providing an elastic material, said method comprising: forming a line of weakness in said elastic material to define a trailing edge of the elastic material; cutting said elastic material to define a leading edge of an elastic member; and separating said elastic material at said line of weakness into discrete elastic members. Ujimoto et al. discloses a method of providing an elastic web material, said method comprising: forming a line of weakness in said elastic material to define a trailing edge of the elastic material then cutting said elastic material to define a leading edge of an elastic member (column 2, lines 1-5); and separating said elastic material at said line of weakness into discrete elastic members (column 2, lines 46-51). Cutting said elastic web material at said line of weakness is advantageous because, as disclosed by Ujimoto et al., doing so increases the speed and the economic efficiency of the production process (column 1, lines 41-53). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to form a line of weakness and subsequently cut the elastic web material at said line of weakness to form discrete elastic members as taught by Ujimoto et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel and Herrin. As to claim 3, Ujimoto et al. discloses a method of providing an adhesive application assembly to apply an operative amount of adhesive to said elastic material

web (column 2, lines 56-57). As to claim 4, Ujimoto et al. discloses a method wherein an operative amount of adhesive A is applied in a rectilinear pattern (figure 2). As to claim 5, Ujimoto et al. discloses a method wherein an operative amount of adhesive is registered with a leading edge and a trailing edge of an elastic member (column 4, lines 50-51). Note the reference discloses that the adhesive can be applied in an intermittent form as an alternative to a continuous form. Although the reference does not explicitly recite the phrase "registered with the leading and trailing edges of the elastic member," the reference does disclose that it is advantageous to have the adhesive registered with the longitudinal edges (column 2, lines 56-59). Thus, one of ordinary skill in the art would have understood at the time the invention was made that an operative adhesive could be applied intermittently to the uncut elastic members such that said operative amount of adhesive is registered with the leading and trailing edge. As to claim 6, Ujimoto et al. discloses a method wherein an operative amount of applied adhesive does not contact the pair of wheels (column 5, lines 63-68). As to claim 7, VanGompel discloses a method wherein the bottom edge of the elastic member 60 is joined to the article web material (at location 68) can take on a curvilinear shape (figure 7, column 9, lines 63-67) While VanGompel does not explicitly disclose that said bottom edge is a "trailing" edge, the bottom edge would be considered a trailing edge during the method of applying an elastic member to an article web material as set forth by Herrin. As to claim 8, Herrin discloses a method wherein the trailing edge of the elastic member defines a "w" shape (figure 2). The obviousness of using the method disclosed by Herrin to make the product disclosed by VanGompel is explained in the discussion of claim 1 above, and hence claims 7 and 8 are rendered obvious. As to claim 9, Ujimoto et al. discloses a method wherein the elastic member is held on the pair of wheels by means of a

vacuum 22a, 22b, 24. The use of a vacuum to hold said elastic member to said pair of wheels is advantageous, as disclosed by Ujimoto et al., because doing so provides sufficient suction force to hold said elastic member while said elastic member is passed through the elongation system (column 5, lines 53-39). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to use vacuum suction to hold said elastic member to said pair of wheels as taught by Ujimoto et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel and Herrin.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel and Herrin as applied to claim 1 above, and in further view of Ruscher et al. '793. VanGompel and Herrin disclose a method as stated in claim 1, but the references fail to disclose a specified diameter for each wheel. Ruscher et al. discloses a method of applying an elastic member to an article web material wherein the diameter of each wheel is between 0.3 and 2.0 meters (column 5, lines 1-12). Using wheels with the specified diameter range is advantageous because, as disclosed by Ruscher et al., doing so allows the article web material to pass through at least one of the wheels before the elastic member is bonded to said article web (column 8, lines 17-21). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art use wheels with said specified diameter as taught by Ruscher et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel and Herrin.

Response to Arguments

Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive. Applicant argues that there is no motivation to modify Jessup by incorporating the method of Herrin and cites MPEP 2143.01. Examiner has added the VanGompel reference and thus considers these arguments moot.

Applicant argues that Ujimoto does not disclose outboard portions extending beyond the side edges of an article web. This argument is now moot in light of examiner's new reference Applicant further states that Ujimoto does not disclose forming a line of weakness. Examiner asserts that the "severance axis" disclosed by the reference is interpreted by examiner to be the same as applicant's claimed "line of weakness." As to applicant's arguments regarding claims 5, 7, and 8, examiner has clarified in paragraph 3 above.

Finally, Applicant argues that Rusher does not disclose outboard portions extending beyond the side edges of an article web. This argument is now moot in light of examiner's new reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 9:00-6:30, Monday -Thursday, 9:00-5:30 Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300

CTS